



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,113	03/31/2004	Arumughan Chami	U 015130-6	6597
7590 Ladas & Parry 26 West 61 Street New York, NY 10023	02/05/2007		EXAMINER PADEN, CAROLYN A	
			ART UNIT 1761	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	02/05/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/815,113	CHAMI ET AL.	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 March 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>3-24-05</u> .	6) <input type="checkbox"/> Other: _____.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for combinations of palm oil or palm stearin and rice bran oil, does not reasonably provide enablement for palm oil and palm stearin and rice bran oil. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to practice the invention commensurate in scope with these claims.

Claims 1, 14, 19 & 20 are objected to because of the following informalities: Claim 1 contains two sentences. Oil is misspelled in claim 1, line 4, 4th word. Claim 9 refers to a “muator”, which should probably be a mutator. Trans is misspelled in claims 14, 19 and 20. Appropriate correction is required.

Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 is unclear because it attempts to define the shortening by referring to the specification. An amendment to the claims adding the critical characteristics of the shortening into the claim would overcome the

rejection. Claim 13 is unclear in the recitation “which fall within the limits of specification requirements”. An amendment clarifying this issue would overcome the rejection.

Claims 3-19 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Although this objection was corrected in the preliminary amendment, the amendment was not entered because it was not signed. Applicant is reminded to sign all amendments submitted to the USPTO.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Khatoon taken with Majumdar.

These references were cited as X references in an international search report because they fully disclose the interesterification of palm stearin with rice bran oil and the interesterification of palm oil with rice bran oil, which is disclosed in the specification. Khatoon teaches the interesterification of palm oil with rice bran oil in Table 2 by using sodium methoxide as a catalyst (see abstract). The process of interesterification is disclosed on pages 33-34 of the article. The margarine is made. Majumdar discloses the interesterification of palm stearin with vegetable oils; especially rice bran oil in Table II. The interesterification process is shown on page 235 in column 2. The process includes sodium methoxide catalyst. Then the catalyst is destroyed by adding hot water, the product is washing and undergoes steam distillation under high vacuum. Khatoon with taken with Majundar teach that the process of interesterifying two oils is known in the art as a way to prepare margarine. Although combining palm oil with palm stearin and rice bran oil is not specifically mentioned, it would have been obvious to include more than two oil sources for interesterifying in order to further modify the physical properties of the reacted fat.

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Majundar taken with Khatoon as applied to claim 1 above, and further in view of Baileys and in combination with Nakhasi (6,783,959),

The claims appear to differ from Majundar taken with Khatoon in the recitation of the specific treatment conditions of interesterification. Baileys teaches on page 148, first full paragraph, that any of a variety of treatment conditions will result in the interesterification of fats. But if a specific process is required, Nakhasi provides such a teaching in example 1. It would have been obvious at the time of applicants' invention to optimize the interesterification process of according to Majundar taken with Khatoon using the process conditions of Nakhasi as one of many optional interesterification processes available and according to individual preferences.

Claims 6-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Majundar taken with Khatoon as applied to claim 1 above, and further in view of Baileys and in combination with Nakhasi (6,783,959) as applied to claims 2-5 above, and further in view of Gunstone taken with Schijf (4,486,457).

The claims appear to differ from Majundar taken with Khatoon in view of Baileys in the recitation of the processing details used in making margarine. Schijf is relied upon to show that it is known in the art to interesterify fats, inactivate the catalyst with water, dry and deodorize the fat and then make margarine from the fat in a Votator. Gunstone is relied upon to describe the votator as a scraped surface heat exchanger that is used to solidify and plasticize fats in the manufacture of shortening and margarine (last paragraph on page 149, figure 18.1 and “blending and chilling” paragraph on page 153. The chilling conditions for the Votator are described on page 150. So even though “margarine crystallizer” is not specifically mentioned, it is clear from the description of the Votator in Schijf and Gunstone that the Votator functions as a margarine crystallizer. It is appreciated that the feed rate, backpressure, and mutator speed are not described but the feed rate would have been expected to depend from the particular processing apparatus used in the margarine manufacture. Tempering of shortening is described on page 150. The concept of “tubbing” margarine is described in Tables 18.2 and 18.3. Even though tubbed shortening is not mentioned, it would have been obvious to put shortening in a tub to provide a consumer suitable product size. It is

appreciated that the tocol, oryzanol and phytosterol content of the spread is not mentioned but rice bran oil is known to be enriched with these particular ingredients. Further it would have been obvious to fortify shortening with tocol, oryzanol and phytosterols to enhance the stability and health benefits of shortening. The lack of trans in the shortening would have been the obvious result of the use of a process that did not include complete hydrogenation.

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is (571) 272-1403. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on (571) 272-1398 or by dialing 571-272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private

PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Carolyn Paden
CAROLYN PADEN 2 - 2 - 07
PRIMARY EXAMINER 1761